

Attorney Docket No.: **UMD-0033**  
Inventors: **Rameshwar and Gascon**  
Serial No.: **10/628,066**  
Filing Date: **July 25, 2003**  
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#### **REMARKS**

Claims 1, 2, 6, 13, 14, and 18 are pending in this application. Claims 1, 2 and 6 have been allowed. Claims 13, 14, and 18 have been rejected. Claims 13, 14, and 18 have been canceled. No new matter has been added by this amendment. Reconsideration is respectfully requested in light of the following remarks.

#### **I. Rejection of Claims Under 35 U.S.C. §112**

Claims 13, 14, and 18 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. It is suggested that the rejected claims are drawn to a genus of nucleic acid molecules comprising a fragment of at least 500 contiguous nucleotides of SEQ ID NO:1, wherein said fragment has promoter activity and includes the recited CMP element. It is suggested that because the genus contains a number of unpredictable species, for example from mouse and other organisms, possession of three species is not seen as sufficient to reasonably convey possession of the entire genus of DNA molecules with at least 500 nucleotides of SEQ ID NO:1. Applicants respectfully disagree with this rejection. However, in the interest of facilitating the allowance of claims 1, 2, and 6, Applicants are canceling claims 13, 14, and 18 without prejudice, reserving the right to file continuing applications on the canceled subject matter. Accordingly, it is respectfully requested that this rejection be withdrawn.

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**II. Rejection of Claims Under 35 U.S.C. §102**

Claims 13, 14, and 18 have been rejected under 35 U.S.C. 102(b) as being anticipated by Gilchrist et al. ((1991) *DNA Cell. Biol.* 10:743-9) as evidenced by GenEmbl accession number S69719.

In so far as claims 13, 14, and 18 have been canceled, it is respectfully submitted that this rejection is moot and therefore withdrawal is requested.

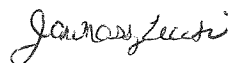
**III. Allowable Subject Matter**

Applicants acknowledge the allowance of claims 1, 2, and 6.

**IV. Conclusion**

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,



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